

EXHIBIT A

VICTOR HO
TCS-TEXAS v GRAMERCY EMERGENCY MGMT

June 27, 2019

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<p>1</p> <p>2 IN THE UNITED STATES DISTRICT COURT</p> <p>3 FOR THE DISTRICT OF UTAH - CENTRAL DIVISION</p> <p>4</p> <p>5 TCS-TEXAS, L.P., a Utah limited</p> <p>6 partnership,</p> <p>7 Plaintiff,</p> <p>8 v.</p> <p>9 Case No.</p> <p>10 GRAMERCY EMERGENCY MANAGEMENT 2:18-cv-00396-JNP-BCW</p> <p>11 PLLC, a Texas professional</p> <p>12 limited liability company,</p> <p>13 MERCER EMERGENCY CENTER - Magistrate Judge</p> <p>14 VICTORIA, LLC, a Texas limited Brooke C. Wells</p> <p>15 liability company, GRAMERCY</p> <p>16 EMERGENCY CENTER - VICTORIA</p> <p>17 LLC, a Texas limited liability</p> <p>18 company, UCHENNA K. OJIAKU, an</p> <p>19 individual, EMMANUELLA</p> <p>20 AKUAZOKU, an individual, VICTOR</p> <p>21 HO, an individual, ARIELLE T.</p> <p>22 LAWSON, an individual, JAMES E.</p> <p>23 GROSSMAN, an individual, and</p> <p>24 KATHLEEN M. GROSSMAN, an</p> <p>25 individual,</p> <p>Defendants.</p> <p>DEPOSITION OF</p> <p>VICTOR HO</p> <p>JUNE, 27th, 2019</p> <p>9:21 a.m.</p> <p>1001 MCKINNEY, SUITE 560</p> <p>HOUSTON, TEXAS</p> <p>Alyssa Poor, RPR</p>	<p>1 APPEARANCES FOR COUNSEL</p> <p>2 ON BEHALF OF THE PLAINTIFF:</p> <p>3 Steven J. Joffee, Esq.</p> <p>4 MICHAEL BEST & FRIEDRICH, LLP</p> <p>5 2750 E Cottonwood Pkwy, Suite 560</p> <p>6 Cottonwood Heights, Utah 84121</p> <p>7 (801) 833-0506, fax (801) 931-2500</p> <p>8 Sjoffee@michaelbest.com</p> <p>9 ON BEHALF OF THE DEFENDANTS, VICTOR HO and ARIELLE T. LAWSON:</p> <p>10 Michael F. Skolnick, Esq.</p> <p>11 KIPP & CHRISTIAN</p> <p>12 10 Exchange Place, 4th Floor</p> <p>13 Salt Lake City, Utah 84111</p> <p>14 (801) 521-3773, fax (801) 359-9004</p> <p>15 Mfskolnick@kippandchristian.com</p> <p>16 ON BEHALF OF THE DEFENDANTS, JAMES E. GROSSMAN and KATHLEEN M. GROSSMAN:</p> <p>17 Katy Baird, Esq.</p> <p>18 ANDREWS MYERS</p> <p>19 1885 Saint James Place, 15th Floor</p> <p>20 Houston, Texas 77056</p> <p>21 (713) 850-4245, fax (713) 850-4211</p> <p>22 Kbaire@andrewsmyers.com</p>
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<p style="text-align: right;">Page 5</p> <p>1 A. Yes.</p> <p>2 Q. I'm going to still begin by going over a few ground</p> <p>3 rules with you that will help the deposition go as smoothly as</p> <p>4 possible today. Today I'm going to be asking you a series of</p> <p>5 questions, and it's your responsibility to answer those</p> <p>6 questions. Do you understand that?</p> <p>7 A. Yes.</p> <p>8 Q. And there's a court reporter in the room, and he or</p> <p>9 she is going to be writing down every word that we say.</p> <p>10 Because of that, it is important that we not speak over one</p> <p>11 another and that we give -- and that you give verbal responses,</p> <p>12 yes/no as opposed to non-verbal gestures or nods and things</p> <p>13 like that. Do you understand that?</p> <p>14 A. Yes.</p> <p>15 Q. If you don't hear a question that I ask or if you</p> <p>16 don't understand a question that I ask, I'd ask that you let me</p> <p>17 know and ask to either rephrase or repeat the question; is that</p> <p>18 fair?</p> <p>19 A. Yes.</p> <p>20 Q. So, you answer a question that I've asked, I'm going</p> <p>21 to assume that you heard the question and that you understood</p> <p>22 the question; is that fair?</p> <p>23 A. Yes.</p> <p>24 Q. You're under oath today, correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 7</p> <p>1 that a patient -- complaint to me in the ER misdiagnosing, but</p> <p>2 it was dismissed. That was one. The one previous to that was</p> <p>3 another case for --</p> <p>4 Q. Let me just stop you for one second. I don't mean to</p> <p>5 interrupt, but I want to make it easier for you. You said</p> <p>6 one was a case against BBVA Compass, and the others were for</p> <p>7 malpractice cases?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. The case -- the most recent case with BBVA</p> <p>10 Compass, you said involved Mercer?</p> <p>11 A. Yes.</p> <p>12 Q. And what is Mercer?</p> <p>13 A. Mercer is a medical -- a company that ran a</p> <p>14 freestanding emergency department.</p> <p>15 Q. And is that a debt collection case?</p> <p>16 A. Yes.</p> <p>17 Q. And what's the status of the case?</p> <p>18 A. That was discovery. That's all I know.</p> <p>19 Q. Is it ongoing?</p> <p>20 A. Yes.</p> <p>21 Q. And are you -- are you personally named the defendant</p> <p>22 in that case?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know how much money is in dispute in that</p> <p>25 case?</p>
<p style="text-align: right;">Page 6</p> <p>1 Q. And Victor, tell me what you understand it to mean to</p> <p>2 being under oath?</p> <p>3 A. To tell you what I believe -- or what I know to the</p> <p>4 best of my knowledge.</p> <p>5 Q. So given that you're under oath today when you answer</p> <p>6 my questions, I'm going to assume that you're answering truthfully</p> <p>7 and to the best of your ability. Is that fair?</p> <p>8 A. Yes.</p> <p>9 Q. Is there any reason that you wouldn't be able to</p> <p>10 testify truthfully and honestly today?</p> <p>11 A. No.</p> <p>12 Q. Are you on any kind of medications that would impact</p> <p>13 your ability to recall facts or to say what you mean?</p> <p>14 A. No.</p> <p>15 Q. You mentioned that you've been deposed before.</p> <p>16 Approximately how many times?</p> <p>17 A. Five.</p> <p>18 Q. Can you briefly describe the nature of the cases in</p> <p>19 which you were deposed?</p> <p>20 A. The most recent case was involving, um, a bank BBVA</p> <p>21 Compass in discovery for a case with Mercer -- Emergency Center</p> <p>22 Victoria. The previous one to that the rest are all medical.</p> <p>23 The last one was involving a case with -- I'm trying to think</p> <p>24 who it was -- I can't remember who it was. It ended up being a</p> <p>25 medical case that was dismissed involving a patient, of course,</p>	<p style="text-align: right;">Page 8</p> <p>1 A. Not exactly. I would have to go back to you on the</p> <p>2 exact number.</p> <p>3 Q. Do you have an approximate idea? Is it hundreds of</p> <p>4 thousands, millions, billions?</p> <p>5 A. Millions.</p> <p>6 Q. Have you ever testified in a trial before?</p> <p>7 A. No.</p> <p>8 Q. How about in any type of evidentiary hearing or</p> <p>9 arbitration proceeding?</p> <p>10 A. No.</p> <p>11 Q. And you're represented by counsel today, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And Mr. Skolnick is your counsel; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. Did you do anything to prepare for your deposition</p> <p>16 today?</p> <p>17 A. No.</p> <p>18 Q. Did you discuss your deposition today with anyone</p> <p>19 other than Mr. Skolnick?</p> <p>20 A. No.</p> <p>21 Q. And I assume then you didn't review any documents to</p> <p>22 prepare for your deposition today?</p> <p>23 A. I'm sorry. Yes, I reviewed documents that were</p> <p>24 forwarded -- I believe that was disclosed to you and they were</p> <p>25 forwarded to me. I got an e-mail saying these are our</p>

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<p style="text-align: right;">Page 9</p> <p>1 documents.</p> <p>2 Q. So, I just want to make sure I understand. So you</p> <p>3 reviewed the documents that I forwarded to Mr. Skolnick?</p> <p>4 A. I believe so, yes. I believe that's what the -- I</p> <p>5 have to look at the e-mail again but, like I said, I just</p> <p>6 finished working at four in the morning, so I believe that's</p> <p>7 what I said.</p> <p>8 Q. Okay. All right. Thank you. Did anything in those</p> <p>9 documents refresh your recollection as to what this case is</p> <p>10 about?</p> <p>11 A. Could you repeat the question?</p> <p>12 Q. Did anything in your review of those documents</p> <p>13 refresh your recollection as to the matters that this case is</p> <p>14 about?</p> <p>15 A. Refresh -- yes, it was a quick review.</p> <p>16 Q. Do you recall what documents you reviewed?</p> <p>17 A. One was the lease agreement with TCS. I believe</p> <p>18 there were several documents under that category that were</p> <p>19 included. One was the -- your -- I believe it was your firm's</p> <p>20 request for some information first -- I don't know what it's</p> <p>21 called -- answer of some questions, those are the only thing I</p> <p>22 remember there were a total of. I don't remember how many</p> <p>23 there were. Maybe eight or nine, five or six, eight or nine</p> <p>24 documents, something like that.</p> <p>25 Q. Okay. When you're talking about the answers to</p>	<p style="text-align: right;">Page 11</p> <p>1 entities?</p> <p>2 A. Yes.</p> <p>3 Q. You said Beaumont Emergency -- what was the last</p> <p>4 part?</p> <p>5 A. Medicine Associates.</p> <p>6 Q. And when was that formed?</p> <p>7 A. 2007.</p> <p>8 Q. What's your ownership interest in Beaumont Emergency</p> <p>9 Medicine?</p> <p>10 A. One-sixth partnership.</p> <p>11 Q. Do any of the other named defendants in this case</p> <p>12 have ownership interests in Beaumont Emergency Medicine?</p> <p>13 A. No.</p> <p>14 Q. So the another five-sixth interests are not owned by</p> <p>15 anyone who had any ownership in Gramercy Emergency Management,</p> <p>16 correct?</p> <p>17 A. I'm not sure I understand the question. Repeat that</p> <p>18 again, please.</p> <p>19 Q. So you own one-sixth of Beaumont, the other</p> <p>20 five-sixths are not owned by any individuals who have ownership</p> <p>21 interests in Gramercy Emergency Management, correct?</p> <p>22 A. If I understand your question, you're saying that the</p> <p>23 other five named defendants don't have any ownership in</p> <p>24 Beaumont Emergency Management or Gramercy?</p> <p>25 Q. Beaumont.</p>
<p style="text-align: right;">Page 10</p> <p>1 questions, were you talking about discovery responses?</p> <p>2 A. I don't know the verbiage. That sounds correct.</p> <p>3 Q. Okay. Can you just briefly describe your educational</p> <p>4 background for me?</p> <p>5 A. Undergraduate in engineering at Northwestern, medical</p> <p>6 school in Oklahoma, and then residency in Philadelphia in</p> <p>7 emergency medicine.</p> <p>8 Q. After your residency, where did you first start</p> <p>9 working as a physician?</p> <p>10 A. Houston, Texas.</p> <p>11 Q. And what year did you finish your residency?</p> <p>12 A. 1997.</p> <p>13 Q. And have you been a practicing physician since that</p> <p>14 time?</p> <p>15 A. Yes.</p> <p>16 Q. And you are an ER physician; is that correct?</p> <p>17 A. Correct.</p> <p>18 Q. Are you currently employed in the position?</p> <p>19 A. Yes.</p> <p>20 Q. Where?</p> <p>21 A. In Beaumont, Texas and port Port Arthur, Texas.</p> <p>22 Q. Who is your employer?</p> <p>23 A. Beaumont Emergency Medicine Associates and Golden</p> <p>24 Triangle Emergency Center.</p> <p>25 Q. Do you have ownership interests in either of those</p>	<p style="text-align: right;">Page 12</p> <p>1 A. No. They do not own anything in Beaumont, correct.</p> <p>2 Q. Okay. And then you mentioned Golden Triangle.</p> <p>3 What's the full name of the entity?</p> <p>4 A. Golden Triangle Emergency Center.</p> <p>5 Q. And do you have ownership interest in that as well?</p> <p>6 A. Yes.</p> <p>7 Q. What's your ownership interest?</p> <p>8 A. Eight percent.</p> <p>9 Q. And Victor, did any of the other defendants or owners</p> <p>10 of Gramercy Emergency Management have an ownership interest in</p> <p>11 Golden Triangle Emergency Center?</p> <p>12 A. No.</p> <p>13 Q. Approximately, how many hours do you work a week?</p> <p>14 A. 40.</p> <p>15 Q. Approximately, what was your salary in 2018?</p> <p>16 MR. SKOLNICK: I'm going to object. I've given</p> <p>17 some latitude scheme of questions that pertain to the</p> <p>18 defendant's personal professional engagement currently, and</p> <p>19 also to things that touch on assets, but now you're getting</p> <p>20 into areas that really have no bearing on whether there's</p> <p>21 liability in Utah case and -- let him answer the next question,</p> <p>22 but I just want it to be on record that I made -- instructed</p> <p>23 him not to answer it. If you want to persist that's fine, we</p> <p>24 likely will need to take it up with the Court.</p> <p>25 MR. JOFFEE: Understood.</p>

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<p style="text-align: right;">Page 13</p> <p>1 MR. SKOLNICK: You can answer. Can the question</p> <p>2 be read back, please?</p> <p>3 (Requested portion was read.)</p> <p>4 THE WITNESS: I'm an independent contractor, so</p> <p>5 I have a salary based on that and I don't have my taxes yet,</p> <p>6 um, an approximation -- \$400,000.</p> <p>7 Q. (BY MR. JOFFEE) Victor, do you have any plans or</p> <p>8 intent to declare bankruptcy personally?</p> <p>9 A. The thought has crossed my mind.</p> <p>10 Q. Tell me what you understand about the case on why</p> <p>11 you're here today?</p> <p>12 A. TCS is a company that provided funding to a -- for us</p> <p>13 for Mercer Gramercy to rent or lease radiological equipment for</p> <p>14 our freestanding emergency center. The -- there's details</p> <p>15 involving the equipment itself, but the ends result is that the</p> <p>16 emergency center was not -- did not become physically solvent</p> <p>17 and we had to close the doors and we had to break the lease,</p> <p>18 from my understanding. We had to return the equipment. We</p> <p>19 received notice from TCS stating that that's a breach and now</p> <p>20 we're being sued for any remaining monies.</p> <p>21 Q. (BY MR. JOFFEE) You said that Gramercy Emergency</p> <p>22 Management is also referred to as Mercer?</p> <p>23 A. Yes.</p> <p>24 Q. Are those separate entities?</p> <p>25 A. There's -- synonymously I believe those are DBA.</p>	<p style="text-align: right;">Page 15</p> <p>1 you mentioned TCS. I'm going to be using the acronym TCS today</p> <p>2 to refer to TCS-Texas L.P. Is that fair?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know how Gramercy -- how you and your partners</p> <p>5 first became aware of TCS?</p> <p>6 A. No.</p> <p>7 Q. And at some point did you and your partners decide</p> <p>8 you wanted to lease medical equipment?</p> <p>9 A. Yes.</p> <p>10 Q. And did you look at various companies, or did you</p> <p>11 just go directly to TCS?</p> <p>12 A. I was not part of that process.</p> <p>13 Q. Who was?</p> <p>14 A. Dr. Ojiaku.</p> <p>15 Q. And so Dr. Ojiaku, he was the one solely responsible</p> <p>16 for going out and looking for a finance lease company?</p> <p>17 MS. BAIRD: Objection. Form.</p> <p>18 THE WITNESS: He assumed that role. We each</p> <p>19 took a thing we were going to do. That was his role was too</p> <p>20 look for equipment.</p> <p>21 Q. (BY MR. JOFFEE) Victor, are you familiar with a</p> <p>22 company called Atlantis Worldwide?</p> <p>23 A. Yes.</p> <p>24 Q. What is Atlantis Worldwide? And I'm just going refer</p> <p>25 to Atlantis Worldwide today as Atlantis.</p>
<p style="text-align: right;">Page 14</p> <p>1 Q. And you said it was no longer in business. Why did</p> <p>2 it go out of business?</p> <p>3 A. The -- it became physically insolvent. Monies coming</p> <p>4 in were not leading the costs.</p> <p>5 Q. When I use the word Gramercy today, I am going to be</p> <p>6 referring to Gramercy Emergency Management and Mercer; is that</p> <p>7 fair?</p> <p>8 A. Yes.</p> <p>9 Q. Did you own a percentage of Gramercy?</p> <p>10 A. Yes.</p> <p>11 Q. How much did you own?</p> <p>12 A. About believe one-third.</p> <p>13 Q. And who are the other owners?</p> <p>14 A. Dr. James Grossman and Dr. Uchenna Ojiaku.</p> <p>15 Q. And do they each own one-third as well?</p> <p>16 A. Yes.</p> <p>17 Q. And is Gramercy still an active entity? Has it been</p> <p>18 dissolved?</p> <p>19 A. It is still open on the books, but it is not active.</p> <p>20 Q. What role did you play personally at Gramercy when it</p> <p>21 was in operation?</p> <p>22 A. I was one of the partners.</p> <p>23 Q. Did you practice as a physician there?</p> <p>24 A. Yes.</p> <p>25 Q. And when you were describing the nature of the case</p>	<p style="text-align: right;">Page 16</p> <p>1 A. That's fine. I believe they were the actual owners</p> <p>2 of the radiological equipment.</p> <p>3 Q. You said the owners of the radiological equipment.</p> <p>4 By that do you mean the vendor?</p> <p>5 A. Yes. I believe that's the proper term.</p> <p>6 Q. Do you know how Gramercy became familiar with</p> <p>7 Atlantis -- how they found Atlantis?</p> <p>8 A. No.</p> <p>9 Q. That would have been Dr. Ojiaku?</p> <p>10 A. Yes.</p> <p>11 Q. Do you understand that Gramercy elected to have the</p> <p>12 equipment purchased from Atlantis?</p> <p>13 A. I can't recall.</p> <p>14 Q. Had you or Gramercy ever purchased refurbished</p> <p>15 medical equipment before this transaction involving Atlantis?</p> <p>16 A. No.</p> <p>17 Q. Do you recall hearing anything about Atlantis'</p> <p>18 reputation before you entered into the lease agreement with</p> <p>19 TCS?</p> <p>20 A. At the time of the signing, I don't recall. I've</p> <p>21 seen documentation later that seems that was in question.</p> <p>22 Q. Are you aware of any conversations that TCS had with</p> <p>23 Gramercy regarding TCS's concerns about buying medical</p> <p>24 equipment from Atlantis before the lease was executed?</p> <p>25 A. I can't recall exactly. Dr. Ojiaku would give us</p>

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<p style="text-align: right;">Page 17</p> <p>1 reports on the various companies, so when we were looking it</p> <p>2 may have been mentioned, but I can't recall.</p> <p>3 MR. JOFFEE: Court reporter, if you could please</p> <p>4 hand or mark the document behind tab number one. And just for</p> <p>5 clarity with the record, this is for document labeled beginning</p> <p>6 in DEF 000001 and ending in 000075.</p> <p>7 (Exhibit No. 1 marked.)</p> <p>8 Q. (BY MR. JOFFEE) So, Victor, I've just handed you a</p> <p>9 document -- the court reporter's handed you a document marked</p> <p>10 as Exhibit 1 to your deposition. Do you recognize this</p> <p>11 document?</p> <p>12 A. It was in the list of the documents that was sent to</p> <p>13 me that I reviewed this morning.</p> <p>14 Q. It's dated April 4th, 2016. Do you see that at the</p> <p>15 top?</p> <p>16 A. Yes.</p> <p>17 Q. And do you recall reviewing this document in 2016 at</p> <p>18 or around the time that it was said?</p> <p>19 A. This specific document, no.</p> <p>20 Q. Okay. And you see it's direct to Gramercy and it's</p> <p>21 from TCS-Texas and the first sentence below where it says "Re:</p> <p>22 Master lease agreement" it says, "Enclosed are the following</p> <p>23 documents for your review and execution." Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And then it lists several documents. If you could</p>	<p style="text-align: right;">Page 19</p> <p>1 mammography systems to a customer in New Jersey who</p> <p>2 transshipped these systems to Iran," and then skipping down to</p> <p>3 the fourth paragraph it says, "After cooperating with the FBI,</p> <p>4 I still had to plead to the felony of conspiracy to make false</p> <p>5 statements." Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And TCS provides this letter to Gramercy before the</p> <p>8 lease was executed; is that correct?</p> <p>9 A. I don't recall.</p> <p>10 MR. SKOLNICK: Pardon me, Doctor. Objection.</p> <p>11 Lack of foundation.</p> <p>12 Q. (BY MR. JOFFEE) Do you what date the lease was</p> <p>13 executed?</p> <p>14 A. No.</p> <p>15 Q. Could you flip back to the page before ending in 003?</p> <p>16 A. Okay.</p> <p>17 Q. The next sentence says, "By signing this</p> <p>18 acknowledgment, Lessee assumes all rights and responsibilities</p> <p>19 as further enforced by the Master Lease, lease number TCS20530</p> <p>20 and holds TCS-Texas, L.P., a Utah limited partnership as Lessor</p> <p>21 harmless of any issues or wrongdoings in the event of lack of</p> <p>22 performance by the Vendor." Did I read that correctly?</p> <p>23 A. Yes.</p> <p>24 Q. Were you aware before entering into the lease that</p> <p>25 TCS had asked Gramercy to accept all liability in the event</p>
<p style="text-align: right;">Page 18</p> <p>1 turn the document with the face number which is the number in</p> <p>2 the lower right-hand corner ending in 03?</p> <p>3 A. Okay.</p> <p>4 Q. Do you recognize this document?</p> <p>5 A. No, not really.</p> <p>6 Q. Let's take a look at it just briefly. So look at</p> <p>7 "Lessee Disclosure Acknowledgement." Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. So, "This letter is to formally acknowledge that</p> <p>10 Gramercy Emergency Management PLLC, a Texas professional</p> <p>11 limited liability company as Lessee, has received the</p> <p>12 disclosure letter regarding Atlantis Worldwide, LLC, a Delaware</p> <p>13 limited liability company as Vendor for this transaction." Did</p> <p>14 I read that correctly?</p> <p>15 A. Yes.</p> <p>16 Q. And do you know what disclosure letter that's</p> <p>17 referring to?</p> <p>18 A. No.</p> <p>19 Q. Would you turn to the next page?</p> <p>20 A. Okay.</p> <p>21 Q. This is a letter from Atlantis Worldwide to TCS.</p> <p>22 Have you ever seen this letter before?</p> <p>23 A. Not until recently.</p> <p>24 Q. And the letter starts by saying, "In 2009 I was</p> <p>25 sentenced to three years of probation for selling pre-owned</p>	<p style="text-align: right;">Page 20</p> <p>1 that Atlantis didn't perform under its agreements with</p> <p>2 Gramercy?</p> <p>3 A. I don't recall.</p> <p>4 Q. Do you know this document that your looking at here</p> <p>5 isn't signed. Do you know if it ever was signed?</p> <p>6 A. I do not know.</p> <p>7 Q. And so no one ever told you personally, as far as you</p> <p>8 recall, that the Vendor at Atlantis Worldwide was a convicted</p> <p>9 felon and that he had been convicted for felony conspiracy to</p> <p>10 make false statements, correct?</p> <p>11 A. I don't recall. We had a lot of the meetings at that</p> <p>12 time discussing a lot of different vendors, so it all is a</p> <p>13 blur. I do not recall.</p> <p>14 MR. JOFFEE: If the court reporter could hand --</p> <p>15 or mark the documents that's behind tab two. And for the</p> <p>16 record, Bates label on the first page of this document is TCS</p> <p>17 000104.</p> <p>18 (Exhibit No. 2 marked.)</p> <p>19 Q. (BY MR. JOFFEE) So, Victor, this is the same</p> <p>20 document that we just looked at except for this version is</p> <p>21 signed. Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. And does that refresh your recollection as to whether</p> <p>24 Gramercy signed this Lessee disclosure acknowledge at some</p> <p>25 point?</p>

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<p>1 MR. SKOLNICK: Objection. Lack of foundation.</p> <p>2 THE WITNESS: Can you repeat the question again?</p> <p>3 Q. (BY MR. JOFFEE) Do you recognize the signature on</p> <p>4 the Gramercy line?</p> <p>5 A. I mean -- there's a name there, it says Uchenna</p> <p>6 Ojiaku, but I don't know his signature, per se, that might be</p> <p>7 his. I don't know.</p> <p>8 Q. You don't have any reason to dispute that that's his</p> <p>9 signature? You do not know one way or the other?</p> <p>10 A. Right. I don't know his signature.</p> <p>11 Q. Okay. And the question that I recently asked is</p> <p>12 whether this refreshes your recollection that Gramercy signed</p> <p>13 this document?</p> <p>14 MS. BAIRD: Objection. Lack of foundation.</p> <p>15 MR. SKOLNICK: Same objection.</p> <p>16 MS. BAIRD: Counsel, can we agree that one</p> <p>17 objection does for all?</p> <p>18 MR. JOFFEE: That's fine. Just so you</p> <p>19 understand, object to form is not a proper objection in Utah.</p> <p>20 MS. BAIRD: Right. The lack of objection --</p> <p>21 lack of foundation, but are we in agreement that one does for</p> <p>22 all? Because I will probably be interrupting less.</p> <p>23 MR. JOFFEE: Yes, that's fine with me.</p> <p>24 MR. SKOLNICK: That's agreeable.</p> <p>25 MS. BAIRD: Thank you.</p>	<p>1 leased from TCS. Do you know specifically what that equipment</p> <p>2 consisted of?</p> <p>3 A. I believe -- I don't know the specifics, but it was</p> <p>4 radiological equipment. So a CAT scanner, an X-ray machine --</p> <p>5 I honestly don't know if the computers came with it. And we</p> <p>6 had an ultrasound, but I don't know if it was part of this deal</p> <p>7 or not.</p> <p>8 MR. JOFFEE: All right. Court reporter, if you</p> <p>9 could hand or mark for the witness as Exhibit 3 the documents</p> <p>10 behind tab four, and then also mark as Exhibit 4 the documents</p> <p>11 behind tab six. So tab four is Exhibit 3, and six is the</p> <p>12 fourth. Thank you. Exhibit 3 is TCS 000091, and Exhibit 4 is</p> <p>13 TCS 000006.</p> <p>14 (Exhibit No. 3 marked.)</p> <p>15 (Exhibit No. 4 marked.)</p> <p>16 THE WITNESS: Okay. I have them.</p> <p>17 Q. (BY MR. JOFFEE) Victor, you've been handed two</p> <p>18 documents. One is marked Exhibit 3, and one is marked Exhibit</p> <p>19 4. Beginning with Exhibit 3, do you recognize Exhibit 3?</p> <p>20 A. No.</p> <p>21 Q. So, it represents to you that this is the Master</p> <p>22 Lease Agreement that was executed between TCS and Gramercy.</p> <p>23 You never reviewed this lease?</p> <p>24 A. I'm sorry. What was the question?</p> <p>25 Q. Did you ever review this Lease Agreement?</p>
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<p>1 Q. (BY MR. JOFFEE) So, Victor, sitting here today you</p> <p>2 don't know whether or not Gramercy signed this Lessee</p> <p>3 Disclosure Acknowledgment?</p> <p>4 A. I don't recall if and when it was signed.</p> <p>5 Q. Do you have a reason to dispute that Gramercy</p> <p>6 received the disclosure letter that the tax, this Lessee</p> <p>7 acknowledgement before the lease was executed?</p> <p>8 A. I don't recall seeing it prior to -- I don't recall</p> <p>9 seeing it.</p> <p>10 Q. So you see that in the document it says that Gramercy</p> <p>11 agrees to assume all rights and responsibilities and holds TCS</p> <p>12 harmless for any issues of wrongdoing in the event of lack of</p> <p>13 performance by Atlantis. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And in the last sentence of this Lessee Disclosure</p> <p>16 Acknowledgment it says, "Lessee," that's Gramercy, "will be</p> <p>17 required to meet all obligations under the Master Lease." Do</p> <p>18 you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Were you aware at the time that this was executed</p> <p>21 that Gramercy had agreed to meet all of these obligations under</p> <p>22 the Master Lease?</p> <p>23 A. I don't recall exactly, but -- it's black and white,</p> <p>24 but I don't recall exactly discussing this.</p> <p>25 Q. You talked about the equipment earlier that Gramercy</p>	<p>1 A. I don't recall.</p> <p>2 Q. If you'll flip to the second to last page, page</p> <p>3 number 096?</p> <p>4 A. Yes, I'm there.</p> <p>5 Q. Okay. There's a signature by Dr. Ojiaku. Do you see</p> <p>6 that?</p> <p>7 A. Yes.</p> <p>8 Q. And it's also signed by someone for TCS. Do you see</p> <p>9 that?</p> <p>10 A. Yes.</p> <p>11 Q. And if you go back to the first page of the document,</p> <p>12 there's a date in the upper right-hand corner it says April</p> <p>13 4th, 2016. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And then paragraph one says "Scope of Lease" and it</p> <p>16 says, "Lessor agrees to lease to Lessee, and Lessee agrees to</p> <p>17 lease from Lessor the equipment, property, software, and</p> <p>18 capitalized costs (the 'Leased Property') described in each</p> <p>19 lease schedule (a 'Schedule') executed pursuant hereto." Did I</p> <p>20 read that correctly?</p> <p>21 A. Yes.</p> <p>22 Q. And so what that says is that Gramercy is agreeing to</p> <p>23 lease certain equipment described in a Lease Schedule. Is that</p> <p>24 your understanding?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 25</p> <p>1 Q. And Exhibit 4. Do you recognize this document?</p> <p>2 A. No.</p> <p>3 Q. So, I represent to you that this is the Amended And</p> <p>4 Restated Lease Schedule No. 001. So, at the time that the</p> <p>5 lease was signed, there was something that was called Lease</p> <p>6 Schedule No. 001 that was subsequently amended, and the Lease</p> <p>7 Schedule -- the Amended Restated Lease Schedule No. 001 became</p> <p>8 the effective Lease Schedule. And just to refer you to the</p> <p>9 documents that the Lessee is Gramercy, the Lessor is TCS-Texas.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And paragraph one says, "Leased Property: Radiology</p> <p>13 and Medical equipment as more fully described on the attached</p> <p>14 Exhibit A." Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And that's consistent with what you said earlier that</p> <p>17 this was radiological equipment, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And if you'll turn to the third page of this document</p> <p>20 of the Bates number ending in 008, this is the Exhibit A that's</p> <p>21 referred to in paragraph one of Exhibit 4. This is a list of</p> <p>22 equipment. Could you just briefly review this list for me,</p> <p>23 Victor, and confirm whether it's your understanding that this</p> <p>24 is the equipment that Gramercy leased from TCS?</p> <p>25 A. Okay. I reviewed the descriptions of the equipment.</p>	<p style="text-align: right;">Page 27</p> <p>1 Q. Did you at the time?</p> <p>2 A. I understood at the time that we needed to get</p> <p>3 equipment, and so I signed what was needed to be signed.</p> <p>4 Q. Do you not dispute that you signed the Personal</p> <p>5 Guaranty, correct?</p> <p>6 A. Whatever was -- there was a lot going on at the time.</p> <p>7 So we were trying to get the business started, so as each of us</p> <p>8 brought forth what we needed, we signed what we needed to sign,</p> <p>9 and we didn't question very much.</p> <p>10 Q. I'm sorry. What was that?</p> <p>11 A. Each of us had a role. We each brought forth and we</p> <p>12 said this needs to be signed, let's move, there's things to be</p> <p>13 signed.</p> <p>14 Q. Victor, do you know what a finance lease is?</p> <p>15 A. Not exactly.</p> <p>16 Q. Would you just read -- you don't need to read that</p> <p>17 out loud, paragraph 14 of the Lease Schedule for me?</p> <p>18 A. Okay.</p> <p>19 Q. Paragraph 14 says, in part, that this is a finance</p> <p>20 lease and then under "(a)" it says, "Lessee has selected the</p> <p>21 Leased Property in its sole discretion." Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have any reason to dispute that Gramercy, in</p> <p>24 its sole discretion, selected the equipment to be purchased</p> <p>25 from Atlantis?</p>
<p style="text-align: right;">Page 26</p> <p>1 I don't recall if it's exactly everything that was at our</p> <p>2 emergency center, but it includes a CT scanner, equipment,</p> <p>3 radiology -- it appears to include all radiological equipment.</p> <p>4 Q. If you'll turn back to the first page of Exhibit 4.</p> <p>5 Paragraph five describes the base term says 48 months, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And in paragraph six it describes the base monthly</p> <p>8 rent, and it says that it's \$9,037.39 plus applicable sales/use</p> <p>9 and property tax, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And in paragraph 12, would you read that for me?</p> <p>12 A. Paragraph 12 -- "As additional security for the</p> <p>13 financing provided hereunder, Lessee agrees to provide to</p> <p>14 Lessor a Guaranty from Gramercy Emergency Center - Victoria,</p> <p>15 LLC, Uchenna K. Ojiaku, Emmanuella C. Akuazoku,</p> <p>16 A-K-U-A-Z-O-K-U, Victor Ho." On the next page, the</p> <p>17 continuation, "Arielle T. Lawson, James E. Grossman, and</p> <p>18 Kathleen M. Grossman to guaranty Lessee's obligations under the</p> <p>19 Master Lease and all Schedules executed in connection</p> <p>20 therewith; said Guaranty is attached hereto and made a part</p> <p>21 hereof."</p> <p>22 Q. Thank you. Did you understand, Victor, that you're</p> <p>23 provision of a Personal Guaranty was required as security for</p> <p>24 the financing provided by TCS to Gramercy?</p> <p>25 A. I do now.</p>	<p style="text-align: right;">Page 28</p> <p>1 A. I guess, I didn't understand the -- you state --</p> <p>2 could you repeat the question one more time?</p> <p>3 Q. Do you understand that Gramercy selected to purchase</p> <p>4 the leased property from Atlantis? Rather than some other</p> <p>5 medical equipment vendor?</p> <p>6 A. Actually, my understanding is that I thought we were</p> <p>7 leasing the equipment, not purchasing it.</p> <p>8 Q. So, yeah, and so what this says is the way the</p> <p>9 finance lease works is a company, such as Mercer, goes to a</p> <p>10 leasing company. It tells the leasing company we want to</p> <p>11 purchase certain equipment from a certain vendor and then the</p> <p>12 leasing company goes out, purchases that equipment, and leases</p> <p>13 it back. And so my question for you is: If you understand</p> <p>14 that it was Gramercy's decision to purchase the medical</p> <p>15 equipment that TCS ultimately leased to Gramercy from Atlantis?</p> <p>16 MR. SKOLNICK: I'm going to object to the</p> <p>17 testimonial aspect of the last question. Doctor, you may</p> <p>18 answer the question if you're able.</p> <p>19 THE WITNESS: Well, by your explanation I'm not</p> <p>20 disputing what you say. It's not my understanding of what</p> <p>21 their agreement was, I guess, at the time, so I guess I</p> <p>22 disagree with what you said.</p> <p>23 Q. (BY MR. JOFFEE) Why?</p> <p>24 A. My understanding is that from what you just</p> <p>25 described, and again it's probably written out here in these</p>

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<p style="text-align: right;">Page 29</p> <p>1 articles in the specifics, but since I'm not a finance person</p> <p>2 -- when they came, when the presentation was made to us that</p> <p>3 this is the company we're going to use, TCS is going to provide</p> <p>4 funding to then lease the equipment, I did not understand or --</p> <p>5 now you're stating that it's for providing money to own the</p> <p>6 equipment and that was never my understanding. My</p> <p>7 understanding is that this was leased equipment that they were</p> <p>8 providing money to help us lease it that we're paying you, so I</p> <p>9 didn't think we owned the equipment. So, that's why I</p> <p>10 misunderstood.</p> <p>11 Q. Okay. I understand we're saying different things,</p> <p>12 which is fine. You see there under "(a)" it says, "Lessee has</p> <p>13 Selected the Leased property in its sole discretion." And you</p> <p>14 don't have any reason to dispute the accuracy of that</p> <p>15 representation, correct?</p> <p>16 A. Correct.</p> <p>17 Q. Do you remember when Gramercy received the equipment?</p> <p>18 A. I don't recall the exact date.</p> <p>19 Q. Do you remember the year?</p> <p>20 A. 2016.</p> <p>21 Q. And when the equipment arrived, did you inspect it?</p> <p>22 A. I personally did not, no.</p> <p>23 Q. Did Gramercy have anyone inspect it?</p> <p>24 A. I don't recall.</p> <p>25 Q. Did you use the equipment?</p>	<p style="text-align: right;">Page 31</p> <p>1 A. The technicians -- radiological technicians. There</p> <p>2 were comments made by radiologists who were reading the films.</p> <p>3 Then the staff, general staff at Mercer, including the</p> <p>4 physicians, made note of the issue with the equipment.</p> <p>5 Q. Do you know if any kind of warranties were given</p> <p>6 regarding the condition of the equipment by Atlantis, the</p> <p>7 Vendor?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know what the warranty consisted of?</p> <p>10 A. The specifics I'm not sure, but I do know that when</p> <p>11 we noted equipment with radiological issues that were affecting</p> <p>12 the quality the film, we went back to Atlantis to have them fix</p> <p>13 the issue multiple times.</p> <p>14 Q. And how did Atlantis respond?</p> <p>15 A. They sent a -- they sent their own contracted service</p> <p>16 personnel to come look at it, and had them look at it. We</p> <p>17 never received adequate cure to our issue.</p> <p>18 Q. Other than the warranty provided by Atlantis, are you</p> <p>19 aware of any other warranties that were provided regarding the</p> <p>20 condition or operation of the equipment?</p> <p>21 A. No.</p> <p>22 MR. JOFFEE: If the court reporter would please</p> <p>23 mark as Exhibit 5 the document behind tab three which has a</p> <p>24 beginning Bates label of TCS 000137.</p> <p>25 (Exhibit No. 5 marked.)</p>
<p style="text-align: right;">Page 30</p> <p>1 A. Can you clarify what you mean?</p> <p>2 Q. Yeah. At any point in time while Gramercy was in</p> <p>3 operation, did you use the equipment that you leased from TCS?</p> <p>4 A. Yes.</p> <p>5 Q. And did you use the equipment at or around the time</p> <p>6 that it was first delivered?</p> <p>7 A. No.</p> <p>8 Q. Never?</p> <p>9 A. Not when it was first delivered. I did not work</p> <p>10 there at that time.</p> <p>11 Q. When did you start working there?</p> <p>12 A. I do not recall the exact date, but it was much later</p> <p>13 after the emergency center had been opened and -- I'd actually</p> <p>14 have to look that up for you when I started working there to</p> <p>15 pick up shifts.</p> <p>16 Q. Just to be clear you, you were always an owner,</p> <p>17 correct?</p> <p>18 A. An owner of Mercer?</p> <p>19 Q. Gramercy.</p> <p>20 A. Yes.</p> <p>21 Q. And you hear complaints at or around the time the</p> <p>22 equipment was delivered regarding the condition of the</p> <p>23 equipment?</p> <p>24 A. Yes.</p> <p>25 Q. And who did you hear those complaints from?</p>	<p style="text-align: right;">Page 32</p> <p>1 THE WITNESS: Okay.</p> <p>2 Q. (BY MR. JOFFEE) So, Victor, you have just been</p> <p>3 handed a document marked Exhibit 5. Do you recognize this?</p> <p>4 A. No.</p> <p>5 Q. Have you ever heard of a company equalled Quikpro</p> <p>6 Equipment Inspection?</p> <p>7 A. No.</p> <p>8 Q. So if you look at this, this purports to be an</p> <p>9 inspection report that was -- the date is March 1st, 2017. Do</p> <p>10 you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And the location where the inspection occurred is at</p> <p>13 Gramercy Emergency Management. Do you see the address there?</p> <p>14 A. Yes.</p> <p>15 Q. Is that the address where Gramercy operated at the</p> <p>16 emergency center?</p> <p>17 A. Yes.</p> <p>18 Q. And that's the address where the equipment that</p> <p>19 Gramercy leased from TCS was located?</p> <p>20 A. Yes.</p> <p>21 Q. Toward the middle of the page there's a list of the</p> <p>22 affirmations. Question number three says, "Contact confirmed</p> <p>23 that every item was in use/running at the time of scheduling."</p> <p>24 You said you'd never seen this before and you're not familiar</p> <p>25 with Quikpro, and so I'm assuming that you didn't make that</p>

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<p style="text-align: right;">Page 33</p> <p>1 affirmation; is that accurate?</p> <p>2 A. Correct.</p> <p>3 Q. Do you know who did?</p> <p>4 A. No.</p> <p>5 Q. Then skipping down to question 22 says, "The contact</p> <p>6 stated that they are satisfied with the equipment." Do you</p> <p>7 know who made that affirmation?</p> <p>8 A. No.</p> <p>9 Q. Can you turn to the third page of the document under</p> <p>10 question 19 "When was the equipment delivered?" It says</p> <p>11 December 19th, 2016. Does refresh your recollection as to when</p> <p>12 the equipment was delivered?</p> <p>13 A. Sure. If that's what it states, yes. I don't recall</p> <p>14 the exact date.</p> <p>15 Q. Let's go back to Exhibit 3. Do you have that in</p> <p>16 front of you?</p> <p>17 A. Exhibit 3? Yes, I do.</p> <p>18 Q. And so as we talked about before, this is the Master</p> <p>19 Lease agreement between TCS and Gramercy. Where you look at</p> <p>20 paragraph one regarding the scope of the lease, I'm looking now</p> <p>21 at paragraph three, could you read for me the sentence in all</p> <p>22 capital letters?</p> <p>23 A. I'm sorry. I don't see anything with all capital</p> <p>24 letters.</p> <p>25 Q. Okay. So if you go to -- you're on the first page,</p>	<p style="text-align: right;">Page 35</p> <p>1 A. Yes. By this statement, yes. The all caps.</p> <p>2 Q. Paragraph 14. "Lessee shall at all times bear all</p> <p>3 risk of loss regarding the Leased Property, including without</p> <p>4 limitation any damage, destruction, loss, impairment, defect,</p> <p>5 malfunction, improper manufacture, warranty claim,</p> <p>6 non-delivery, infringement, theft, governmental taking, or</p> <p>7 otherwise." Do you understand that Gramercy bore the risk for</p> <p>8 any kind of issues relating to the functionality or proper</p> <p>9 operation of the equipment?</p> <p>10 A. I do now.</p> <p>11 Q. And if you turn to paragraph 18. Can you read for me</p> <p>12 the language that is in all capital letters in bold?</p> <p>13 A. "Lessor is not the supplier or manufacturer of the</p> <p>14 leased property, nor an agent thereof, and makes no</p> <p>15 representation or warranty whatsoever, expressed or implied,</p> <p>16 regarding the leased property, including without limitation as</p> <p>17 to the merchantability, fitness for a particular purpose,</p> <p>18 origin, quality, design, capacity, value, condition,</p> <p>19 workmanship, materials, durability, suitability, the conformity</p> <p>20 of the leased property to the provisions and specifications of</p> <p>21 any purchase order or supply contract or non-infringement, and</p> <p>22 expressly disclaims all representations and warranties, it</p> <p>23 being agreed that the leased property is leased 'as is, where</p> <p>24 is' with all faults."</p> <p>25 Q. And Victor, this is consistent with your testimony</p>
<p style="text-align: right;">Page 34</p> <p>1 the right column, the first full sentence starting with Lessee</p> <p>2 payment?</p> <p>3 A. Oh, it's section three. I'm sorry. I looked at the</p> <p>4 paragraphs. I'm sorry.</p> <p>5 Q. Yeah, no problem.</p> <p>6 A. Okay. Yeah, I'm sorry. Now I see what you're</p> <p>7 talking about.</p> <p>8 Q. Could you read that out loud for me?</p> <p>9 A. Yes. "Lessee's payment obligations shall be without</p> <p>10 notice or demand, are absolute, unconditional and not subject</p> <p>11 to abatement, reduction or setoff for any reason, including</p> <p>12 without limitation the failure of the leased property to</p> <p>13 function properly."</p> <p>14 Q. So, you understand, Victor, that Gramercy's</p> <p>15 obligation pursuant to the lease was to make the lease payments</p> <p>16 regardless of the operation or functionality of the equipment?</p> <p>17 A. I do now.</p> <p>18 Q. If you turn to the second page -- and I don't need</p> <p>19 you to read this one out loud, but in paragraph nine or section</p> <p>20 nine, however you want to refer to it, would you read the</p> <p>21 language that's in all capital letters, please?</p> <p>22 A. Okay.</p> <p>23 Q. So, again, my question is: Do you understand that</p> <p>24 Gramercy has an obligation to make the lease payments</p> <p>25 regardless of whether the equipment operates properly?</p>	<p style="text-align: right;">Page 36</p> <p>1 earlier that Gramercy didn't receive any warranties regarding</p> <p>2 the functionality of the equipment with anyone other than</p> <p>3 Atlantis, correct?</p> <p>4 A. Yes. By this statement.</p> <p>5 Q. TCS disclaimed any warranties regarding the</p> <p>6 functionality of the equipment, correct?</p> <p>7 A. By the documents, yes.</p> <p>8 Q. If you'll just turn to paragraph 29.</p> <p>9 A. Okay.</p> <p>10 Q. Can you just read that to yourself?</p> <p>11 A. Okay.</p> <p>12 Q. Do you understand one of Gramercy's obligations under</p> <p>13 this lease to pay TCS's legal fees in the event that TCS</p> <p>14 prevailed in this lawsuit?</p> <p>15 A. Yes.</p> <p>16 Q. And Victor, do you understand that by signing the</p> <p>17 Personal Guaranty you agreed to be personally liable for any</p> <p>18 attorney fees that incurred in connection with lawsuit in the</p> <p>19 event that TCS prevails?</p> <p>20 A. I didn't understand that but by the document, I</p> <p>21 understand.</p> <p>22 Q. And you understand, of course, that the longer this</p> <p>23 suit goes on the larger the attorney fees are going to be,</p> <p>24 correct?</p> <p>25 A. It makes sense, yes.</p>

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<p style="text-align: right;">Page 37</p> <p>1 MR. JOFFEE: If the reporter would please mark</p> <p>2 -- what are we on -- Exhibit 6. The document behind tab seven.</p> <p>3 The beginning Bates number is TCS 000044.</p> <p>4 (Exhibit No. 6 marked.)</p> <p>5 Q. Victor, you've just been handed a document that's</p> <p>6 been marked Exhibit 6. Do you recognize this document?</p> <p>7 A. No.</p> <p>8 Q. So, at the top of this document it says Individual</p> <p>9 Guaranty. Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And then the first sentence says, "This Individual</p> <p>12 Guaranty (this 'Guaranty') is made by Victor Ho and Arielle T.</p> <p>13 Lawson of 11831 Red Coat Lane, Houston, Texas, 77024,</p> <p>14 ('Guarantor') to TCS-Texas." Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Are you the Victor Ho that's referred to in that</p> <p>17 sentence?</p> <p>18 A. Yes.</p> <p>19 Q. Who is Arielle T. Lawson?</p> <p>20 A. That is my wife.</p> <p>21 Q. If you will turn to the page that has the Bates</p> <p>22 number TCS 000047 there's some signatures on that page, and the</p> <p>23 one on the left-hand. Do you recognize that signature?</p> <p>24 A. Yes.</p> <p>25 Q. Is that your signature?</p>	<p style="text-align: right;">Page 39</p> <p>1 notaries and signatures -- I honestly don't know who Vicky</p> <p>2 Carey is.</p> <p>3 Q. Now my next question: You do not have a relationship</p> <p>4 with Vicky Carey? Did she work for you?</p> <p>5 A. I don't know the name.</p> <p>6 Q. Okay. You don't dispute that you signed this</p> <p>7 Personal Guaranty, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Can you go back to the first page of the Individual</p> <p>10 Guaranty, paragraph D. Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. It's says, "Guarantor is willing to guarantee</p> <p>13 Lessee's obligations under each Lease in accordance with the</p> <p>14 provisions set forth herein." Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Did you understand that you are agreeing to fulfil</p> <p>17 Gramercy's obligations in the event that it did not do so</p> <p>18 itself?</p> <p>19 A. I do now.</p> <p>20 Q. And that paragraph one says, "Guarantor hereby</p> <p>21 unconditionally." What does unconditionally mean to you?</p> <p>22 A. Without condition.</p> <p>23 Q. "Unconditionally guarantees the full, complete and</p> <p>24 prompt payment, performance and observance of all of Lessee's</p> <p>25 obligations under each Lease, including without limitation the</p>
<p style="text-align: right;">Page 38</p> <p>1 A. Yes.</p> <p>2 Q. Do you recall the date that you signed this</p> <p>3 agreement?</p> <p>4 A. No.</p> <p>5 Q. If you'll turn two pages forward to the page ending</p> <p>6 with Bates number 049. There was some question in the answer</p> <p>7 that you filed to the complaint as to the date on which you</p> <p>8 signed this agreement. This is a notary representation that</p> <p>9 the document was signed before the notary. Do you see that?</p> <p>10 A. I see a date of April 23rd by the notary. I don't</p> <p>11 see a date of when I signed it.</p> <p>12 Q. So, if you look at the page ending in 049 it says,</p> <p>13 "On the 23rd day the April, 2016, before me personally came</p> <p>14 Victor Ho, to me known to be the individual described in and</p> <p>15 who executed the foregoing instrument who acknowledged me that</p> <p>16 he/she executed the same." Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Do you have any reason to dispute the accuracy of</p> <p>19 that statement?</p> <p>20 A. Repeat the question one more time?</p> <p>21 Q. The question is just if you have a reason to dispute</p> <p>22 the accuracy of the notary's statement that you came before her</p> <p>23 personally on April 23rd, 2016, to confirm that you had</p> <p>24 executed this instrument?</p> <p>25 A. I honestly don't recall. I've been to a bunch of</p>	<p style="text-align: right;">Page 40</p> <p>1 payment of rents and all other amounts under each Lease, as</p> <p>2 well as the payment of all amounts required or provided for</p> <p>3 under each Lease resulting from Lessee's breach or</p> <p>4 non-performance thereof (all guaranteed obligations hereunder</p> <p>5 referred to hereafter as the 'Indebtedness')." And so by</p> <p>6 signing this you agreed to unconditionally guarantee to perform</p> <p>7 the obligations of Gramercy in the event that Gramercy failed</p> <p>8 to do so, correct?</p> <p>9 A. By this statement, yes.</p> <p>10 Q. And you confirmed earlier that one of Gramercy's</p> <p>11 obligations under the Master Lease Agreement was to make it</p> <p>12 least payments regardless of functionality of the equipment,</p> <p>13 correct?</p> <p>14 A. For what for the document? I understand that now,</p> <p>15 yes.</p> <p>16 Q. And so do you understand that it's your personal</p> <p>17 obligation now to make those payments if Gramercy doesn't make</p> <p>18 them?</p> <p>19 A. By contract, I understand these written contracts,</p> <p>20 yes.</p> <p>21 Q. Victor, do you know if Gramercy had made the payments</p> <p>22 that they contractually agreed to make to TCS?</p> <p>23 A. To the best of the my knowledge, we made every</p> <p>24 payment to the point that we closed the doors, or shortly</p> <p>25 before closing the doors.</p>

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<p style="text-align: right;">Page 41</p> <p>1 Q. Do you understand that a payment was due in May 2018,</p> <p>2 and that that payment was not made?</p> <p>3 A. I did not.</p> <p>4 Q. Do you understand that there are payments that are</p> <p>5 due in owing under the Lease that Gramercy has not made?</p> <p>6 A. Yes. Our company is closed.</p> <p>7 Q. And you understand that the failure to make those</p> <p>8 payments constituted a breach of the lease?</p> <p>9 A. Yes, I do now.</p> <p>10 MR. JOFFEE: If the reporter will mark the</p> <p>11 document behind tab 17. It's Bates number TCS 000102.</p> <p>12 (Exhibit No. 7 marked.)</p> <p>13 THE WITNESS: Okay.</p> <p>14 Q. (BY MR. JOFFEE) Okay. Victor, you've just been</p> <p>15 handed a document marked Exhibit 7. Do you recognize this</p> <p>16 document?</p> <p>17 A. I don't recall.</p> <p>18 Q. So, this is an e-mail sent from Wayne Kitchens. Do</p> <p>19 you know who Wayne Kitchens is?</p> <p>20 A. Yes, I do.</p> <p>21 Q. Who is Wayne Kitchens?</p> <p>22 A. He is a bankruptcy attorney.</p> <p>23 Q. And it was sent on June 21st, 2018. Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And it was sent to Deanna Milsap?</p>	<p style="text-align: right;">Page 43</p> <p>1 Exhibit 8.</p> <p>2 (Exhibit No. 8 marked.)</p> <p>3 THE WITNESS: Okay.</p> <p>4 Q. (BY MR. JOFFEE) Victor, you have just been handed a</p> <p>5 document that has been marked Exhibit No. 8. Do you recognize</p> <p>6 this document?</p> <p>7 A. Not on face value, no.</p> <p>8 Q. The top was dated November 6th, 2017. Do you see</p> <p>9 that?</p> <p>10 A. Yes.</p> <p>11 Q. And this comes from a David B. Harberg. Do you see</p> <p>12 that at the top?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know who Mr. Harberg is?</p> <p>15 A. I've never met the man. I do not know him</p> <p>16 personally.</p> <p>17 Q. Do you understand him to be an attorney that</p> <p>18 represents Gramercy?</p> <p>19 A. I do recall now, yes. We were engaging an attorney</p> <p>20 to try to recuperate, yes, from the bad equipment.</p> <p>21 Q. And so this letter in the second paragraph says, "In</p> <p>22 Early 2016, Dr. Ojiaku contacted you concerning the purchase of</p> <p>23 radiology equipment for a new emergency care facility in</p> <p>24 Victoria, Texas." Did I read that accurately?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 42</p> <p>1 A. Yes.</p> <p>2 Q. Do you know who Deanna Milsap is?</p> <p>3 A. No.</p> <p>4 Q. I'll represent for you that she works for TCS. In</p> <p>5 this e-mail Mr. Kitchens says that "Gramercy has ceased</p> <p>6 operations" and I just want to confirm. Do you recall exactly</p> <p>7 when Gramercy ceased operations?</p> <p>8 A. The exact date, I cannot recall.</p> <p>9 Q. At and of June 21st, 2018, was the statement that</p> <p>10 Gramercy had ceased operations accurate?</p> <p>11 A. Yes.</p> <p>12 Q. Then is says, "The company is pursuing liquidation</p> <p>13 options, including a possible bankruptcy filing." As far as</p> <p>14 you were aware, did Gramercy ever file for bankruptcy?</p> <p>15 A. No.</p> <p>16 Q. Do you know if Gramercy intends to file for</p> <p>17 bankruptcy?</p> <p>18 A. We have engaged an attorney to review the facts and</p> <p>19 decide.</p> <p>20 Q. Where is the leased equipment currently located?</p> <p>21 A. I have no idea.</p> <p>22 Q. Do you know if it's still in Gramercy's possession?</p> <p>23 A. I do not believe so.</p> <p>24 MR. JOFFEE: If the reporter could mark the</p> <p>25 document behind tab 12 which is Bates number DEF 000079?</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. And do you have any reason to dispute that it was Dr.</p> <p>2 Ojiaku who reached out to Atlantis regarding the equipment?</p> <p>3 A. I have no reason not to believe that.</p> <p>4 Q. Then the last sentence in that paragraph says, "Dr.</p> <p>5 Ojiaku was also assured by representations on the Atlantis</p> <p>6 website that the warranty provided by Atlantis 'further removes</p> <p>7 risk' in purchasing refurbished equipment." Did I read that</p> <p>8 accurately?</p> <p>9 A. Yes.</p> <p>10 Q. And do you have an understanding that Dr. Ojiaku was</p> <p>11 collecting to have the equipment purchased from Atlantis in</p> <p>12 part because of the warranty that Atlantis provided?</p> <p>13 MS. BAIRD: Objection. Lack of foundation.</p> <p>14 THE WITNESS: I don't recall.</p> <p>15 Q. (BY MR. JOFFEE) If you turn to the next page, the</p> <p>16 first sentence of that first paragraph says, "Based on</p> <p>17 representations made through Atlantis' online advertising and</p> <p>18 your personal representations to Dr. Ojiaku, Gramercy Emergency</p> <p>19 entered into a Sales Agreement with Atlantis, effective March</p> <p>20 1st, 2016." Do you know if that statement is true?</p> <p>21 A. Based upon these documents placed before me, I</p> <p>22 believe it is true.</p> <p>23 Q. As you go to the second paragraph, the second</p> <p>24 sentence on the same page, it says, "The Sales Agreement</p> <p>25 includes a one-year express limited warranty covering parts and</p>

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<p style="text-align: right;">Page 45</p> <p>1 labor, warranting that the Equipment shall be free from defects</p> <p>2 in material or workmanship under normal use and service, and</p> <p>3 defective Equipment shall be repaired or replaced free of</p> <p>4 charge during warranty period." Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And is that the warranty that you were referring to</p> <p>7 earlier when you said, to the extent that there was any</p> <p>8 warranty, that warranty came from Atlantis?</p> <p>9 A. I knew there was a warranty; I didn't know the</p> <p>10 specifics.</p> <p>11 Q. If you turn the next page which is ends in Bates</p> <p>12 number 801. The third full paragraph on the page starts with</p> <p>13 the words "Atlantis' failure." Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. It says, "Atlantis' failure and refusal to honor its</p> <p>16 expressed warranty constitutes a breach of express warranty</p> <p>17 actionable under New York law" then there's a citation and it</p> <p>18 says, "These actions also constitute a material breach of the</p> <p>19 Sales Agreement that goes to the very root of the parties'</p> <p>20 agreement." Do you know if it was Gramercy's position at the</p> <p>21 time that Atlantis had breached the sales agreement by not</p> <p>22 providing equipment that allegedly did not function properly?</p> <p>23 A. That was our contention, yes.</p> <p>24 Q. Did Gramercy ever sue Atlantis?</p> <p>25 A. I know we had discussions. I honestly cannot recall</p>	<p style="text-align: right;">Page 47</p> <p>1 with Bates 0129.</p> <p>2 A. Okay.</p> <p>3 Q. The third paragraph from the bottom says, "The amount</p> <p>4 currently due and owing under the Lease is \$382,878.13 (the</p> <p>5 'Payoff Amount'), plus all attorneys' fees incurred by Lessor,</p> <p>6 sales/use and personal property taxes." Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Did you receive this letter?</p> <p>9 A. I believe so.</p> <p>10 Q. And do you understand sitting here today that as of</p> <p>11 May 10th, 2018, the amount outstanding under the Lease was</p> <p>12 \$382,878.13 plus all attorney fees sales/use and personal</p> <p>13 property taxes plus pre/post interest?</p> <p>14 A. Yes.</p> <p>15 Q. And you understand, Victor, that you're personally</p> <p>16 liable for that amount under the Individual Guaranty in the</p> <p>17 event that Gramercy does not pay that amount and TCS prevails</p> <p>18 in this lawsuit, correct?</p> <p>19 A. I understand that now, yes.</p> <p>20 Q. The next paragraph says, "However, if Lessee or the</p> <p>21 Guarantors pay the monthly payment of \$9,037.39, plus sales/use</p> <p>22 tax due on May 18th, 2018, and the same monthly payment on the</p> <p>23 first day of each month thereafter, so long as there is not</p> <p>24 another Material Adverse Change or Default under the Lease,</p> <p>25 Lessor will consider forbearing from exercising its remedies</p>
<p style="text-align: right;">Page 46</p> <p>1 if we moved forward. I know that thinking back this was</p> <p>2 created as an exploration. I don't know if we were actually</p> <p>3 able to devise of counsel or not.</p> <p>4 Q. Do you know anything about Atlantis' current status?</p> <p>5 Is it still in operation?</p> <p>6 A. I have no idea.</p> <p>7 MR. JOFFEE: If the reporter could mark the</p> <p>8 document behind tab 15? It's DEF 000128.</p> <p>9 (Exhibit No. 9 marked.)</p> <p>10 Q. (BY MR. JOFFEE) So, Victor, you've been handed a</p> <p>11 document that's been marked Exhibit 9. Do you recognize this</p> <p>12 document?</p> <p>13 A. Yes.</p> <p>14 Q. Do you see at the top that one of the people it is</p> <p>15 addressed to is yourself?</p> <p>16 A. Yes.</p> <p>17 Q. And is that your address?</p> <p>18 A. Yes.</p> <p>19 Q. And it's dated May 10th, 2018. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And this is a letter from Michael Best who represents</p> <p>22 TCS to yourself and Gramercy and other defendants. Do you see</p> <p>23 that?</p> <p>24 A. Yes.</p> <p>25 Q. If you turn to the second page which is -- it ends</p>	<p style="text-align: right;">Page 48</p> <p>1 under the Lease." Did I read that correctly?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know if the paying of the \$9,037.39 that was</p> <p>4 due on May 18th, 2018, was ever made?</p> <p>5 A. I don't know.</p> <p>6 Q. You did not personally make that payment, correct?</p> <p>7 A. I don't know of any payment.</p> <p>8 Q. Have you ever personally written any checks to TCS to</p> <p>9 pay for Gramercy's lease obligations?</p> <p>10 A. No.</p> <p>11 Q. And you said that you understand that based on the</p> <p>12 Guaranty that you signed, you are obligated to make those</p> <p>13 payments in the event that Gramercy failed you, correct?</p> <p>14 A. I understand that now.</p> <p>15 MR. JOFFEE: Let's take five-minute break.</p> <p>16 (Whereupon a break was taken from 10:49 a.m. to</p> <p>17 10:57 a.m.)</p> <p>18 MR. JOFFEE: I don't have any further questions.</p> <p>19 MR. SKOLNICK: Katy, do you have questions for</p> <p>20 Dr. Ho?</p> <p>21 MS. BAIRD: No, I'll reserve. Thank you.</p> <p>22 MR. SKOLNICK: And I have no questions. We will</p> <p>23 reserve the right to read and sign this deposition. Okay.</p> <p>24 Thank you, Victor, for your time.</p> <p>25 THE WITNESS: Okay. Thank you.</p>

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<p>Page 49</p> <p>1 (Deposition concluded at 10:58 a.m.)</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 51</p> <p>1 DEPOSITION ERRATA SHEET</p> <p>2 Page No. _____ Line No. _____ Change to: _____</p> <p>3 _____</p> <p>4 Reason for change: _____</p> <p>5 Page No. _____ Line No. _____ Change to: _____</p> <p>6 _____</p> <p>7 Reason for change: _____</p> <p>8 Page No. _____ Line No. _____ Change to: _____</p> <p>9 _____</p> <p>10 Reason for change: _____</p> <p>11 Page No. _____ Line No. _____ Change to: _____</p> <p>12 _____</p> <p>13 Reason for change: _____</p> <p>14 Page No. _____ Line No. _____ Change to: _____</p> <p>15 _____</p> <p>16 Reason for change: _____</p> <p>17 Page No. _____ Line No. _____ Change to: _____</p> <p>18 _____</p> <p>19 Reason for change: _____</p> <p>20 Page No. _____ Line No. _____ Change to: _____</p> <p>21 _____</p> <p>22 Reason for change: _____</p> <p>23 _____</p> <p>24 SIGNATURE: _____ DATE: _____</p> <p>25 VICTOR HO</p>
<p>Page 50</p> <p>1 DEPOSITION ERRATA SHEET</p> <p>2</p> <p>3 Our Assignment No. 4183562</p> <p>4 TCS-TEXAS, L.P., v. GRAMERCY EMERGENCY MANAGEMENT PLLC, MERCER</p> <p>5 EMERGENCY CENTER - VICTORIA, LLC, GRAMERCY EMERGENCY CENTER -</p> <p>6 VICTORIA LLC, et al.</p> <p>7</p> <p>8 DECLARATION UNDER PENALTY OF PERJURY</p> <p>9</p> <p>10 I declare under penalty of perjury that I have read the</p> <p>11 entire transcript of my deposition taken in the above-captioned</p> <p>12 matter or the same has been read to me, and the same is true</p> <p>13 and accurate, save and except for changes and/or corrections,</p> <p>14 if any, as indicated by me on the DEPOSITION ERRATA SHEET</p> <p>15 hereof, with the understanding that I offer these changes as if</p> <p>16 still under oath.</p> <p>17</p> <p>18 Signed on the _____ day of _____, 20____.</p> <p>19</p> <p>20 _____</p> <p>21 VICTOR HO</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 52</p> <p>1 DEPOSITION ERRATA SHEET</p> <p>2 Page No. _____ Line No. _____ Change to: _____</p> <p>3 _____</p> <p>4 Reason for change: _____</p> <p>5 Page No. _____ Line No. _____ Change to: _____</p> <p>6 _____</p> <p>7 Reason for change: _____</p> <p>8 Page No. _____ Line No. _____ Change to: _____</p> <p>9 _____</p> <p>10 Reason for change: _____</p> <p>11 Page No. _____ Line No. _____ Change to: _____</p> <p>12 _____</p> <p>13 Reason for change: _____</p> <p>14 Page No. _____ Line No. _____ Change to: _____</p> <p>15 _____</p> <p>16 Reason for change: _____</p> <p>17 Page No. _____ Line No. _____ Change to: _____</p> <p>18 _____</p> <p>19 Reason for change: _____</p> <p>20 Page No. _____ Line No. _____ Change to: _____</p> <p>21 _____</p> <p>22 Reason for change: _____</p> <p>23 _____</p> <p>24 SIGNATURE: _____ DATE: _____</p> <p>25 VICTOR HO</p>

VICTOR HO
TCS-TEXAS v GRAMERCY EMERGENCY MGMT

June 27, 2019

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1 C E R T I F I C A T E

2 STATE OF TEXAS:

3 COUNTY OF HARRIS:

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5 I hereby certify that the foregoing transcript
6 was taken down by stenography and the questions and answers
7 thereto were reduced to typewriting under my direction; that
8 the foregoing pages 1 through 53 represent a true, correct, and
9 complete transcript of the evidence given upon said proceeding.

10 I further certify that I am not of kin or counsel to the
11 parties in the case, am not in the regular employ of counsel
12 for any of said parties, nor am I in any way interested in said
13 case. Reading and signing by the witness has been reserved.

14 This, the 14th day of July, 2019

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ALYSSA POOR, RPR

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